## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

MICHAEL D. BECK	)
Claimant VS.	) ) ) Docket No. 196,692
ADM ARKADY Respondent	)
AND	
OLD REPUBLIC INSURANCE COMPANY Insurance Carrier	

## <u>ORDER</u>

Claimant requests review of the Preliminary Hearing Order of Administrative Law Judge Robert H. Foerschler entered in this proceeding on March 21, 1995.

## **I**SSUES

The Administrative Law Judge, for preliminary hearing purposes, denied claimant's request for authorization of a total left knee replacement. Claimant appears pro se and requests the Appeals Board review that finding. The sole issue now before the Appeals Board is whether the knee replacement is related to claimant's work-related accident of September 21, 1993.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

For purposes of preliminary hearing, the Appeals Board finds as follows:

The Preliminary Hearing Order of the Administrative Law Judge should be affirmed.

The medical evidence is uncontroverted. Claimant needs a total left knee replacement. However, the medical evidence is conflicting whether the replacement is in any way related to claimant's work-related accident of September 21, 1993.

When claimant was injured on September 21, 1993, he tore the medial meniscus in his left knee. In January 1994, Roger Hood, M.D., performed arthroscopic surgery and repaired the torn meniscus. At the time of the procedure, the doctor noted severe joint degeneration and predicted claimant would have future problems with that knee. Dr. Hood

believes there is no relationship between claimant's accident and the present need for knee replacement.

On the other hand, the physician who claimant consulted for a second opinion, Thomas Jensen, M.D., believes the replacement is related to the September 1993 accident. Dr. Jensen believes the 1993 accident aggravated a preexisting arthritic condition in the joint.

Because it appears Dr. Hood may have a more complete history of claimant's injury at this time, for purposes of preliminary hearing only and based upon the evidence presented to date, the Appeals Board finds it is more probably true than not that the present need for left knee replacement is not related to claimant's work-related injury of September 21, 1993. Because the issue is not now before us, no finding is made nor implied whether claimant has sustained injury or aggravation after September 1993.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Robert H. Foerschler entered in this proceeding on March 21, 1995, should be, and hereby is, affirmed.

Dated this day of Jur	ne, 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Michael D. Beck, Olathe, Kansas Jeff S. Bloskey, Kansas City, Kansas Robert H. Foerschler, Administrative Law Judge George Gomez, Director

IT IS SO ORDERED.